

The State of South Carolina

#169
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Office of the Attorney General

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April 29, 1985

Helen T. Zeigler
Special Assistant for Legal Affairs
Office of the Governor
Post Office Box 11450
Columbia, South Carolina 29211

Dear Ms. Zeigler:

You have asked for the opinion of this Office as to the constitutionality of an act of the General Assembly bearing ratification number 97, concerning certain changes in the governing bodies of the Union Hospital District and the Union Recreation District. For the reasons following, it is the opinion of this Office that the act is of doubtful constitutionality.

In considering the constitutionality of an act of the General Assembly, it is presumed that the act is constitutional in all respects. Moreover, such an act will not be considered void unless its unconstitutionality is clear beyond any reasonable doubt. Thomas v. Macklen, 186 S.C. 290, 195 S.E. 539 (1937); Townsend v. Richland County, 190 S.C. 270, 2 S.E.2d 777 (1939). All doubts of constitutionality are generally resolved in favor of constitutionality. While this Office may comment upon potential constitutional problems, it is solely within the province of the courts of this State to declare an act unconstitutional.

The Union Hospital District was created by Act No. 848, 1946 Acts and Joint Resolutions. The Union Recreation District was created by Act No. 343 of 1971. The area comprising each of these districts is located wholly within Union County. Thus, the act under consideration would be considered an act for a specific county. Article VIII, Section 7 of the Constitution of the State of South Carolina provides that "[n]o laws for a specific county shall be enacted." Acts similar to the act

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Special Assistant for Legal Affairs
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considered herein have been struck down by the South Carolina Supreme Court as violative of Article VIII, Section 7. See, for example, Cooper River Parks and Playground Commission v. City of North Charleston, 273 S.C. 639, 259 S.E.2d 107 (1979); Torgerson v. Craver, 267 S.C. 558, 230 S.E.2d 228 (1976); Knight v. Salisbury, 262 S.C. 565, 206 S.E.2d 875 (1974).

Based on the foregoing, we would advise that the act bearing ratification number 97 would be of doubtful constitutionality. Of course, this Office possesses no authority to declare an act of the General Assembly invalid; only a court would have such authority.

Sincerely,

Patricia D. Petway
Patricia D. Petway
Assistant Attorney General

PDP:djg

REVIEWED AND APPROVED BY:

Robert D. Cook

Robert D. Cook
Executive Assistant for Opinions